

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, May 19, 2020 at 7:01 pm** via Zoom Teleconference

Members Present: Chairman Harold Boxer  
George Hoyt  
Ralph Alfano  
Jacqueline Broth  
Arthur Weise

Members Absent: Wayne Spector

Staff Present: Whitney Singleton, Board Counsel  
Peter J. Miley, Building Inspector

Chairman Boxer stated alright, this is the May 19<sup>th</sup> meeting of the Zoning Board and the first case is the Chase Bank.

**1. Max Gordon Architects** **ZBA# 20-1**  
**14 (16) Main Street** **Area**  
**Mount Kisco, NY 10549**  
**(SBL) 69.81-1-3**

Mr. Anthony Albano of Stonefield Engineering; Ms. Jennifer Porter, Esq.; Mr. Christopher Cesca of were present.

Chairman Boxer stated I assume that you're there somewhere, Chase?

Mr. Albano stated so once again my names Anthony Albano, I'm here from Stonefield Engineering and Design on behalf of Chase.

Chairman Boxer stated Anthony, can you get your picture on?

Mr. Albano stated it's not letting me, there it is.

Mr. Hoyt stated you were on earlier.

Chairman Boxer stated there we go.

Mr. Albano stated so tonight I also have with me Jen Porter, she is the land use attorney from Chase helping us on this project with the critical nature of this project, especially with the confidential ATM transactions, we thought it would be a good idea to bring Jen on board. And she will also help shed some light on any questions on the New York State ATM lighting requirements.

Chairman Boxer stated okay.

Mr. Albano stated so we took the Board's recommendation from the last meeting and in the past couple weeks we've done two designs, we've reached out to Peter, worked with him on getting the street lighting, so we were able to include those in our light levels. And there were also recommendations that we use a more diffused light fixture, so we went through all the fixtures that we typically use and try to find a usable fixture for this site. What ended up happening is we ended up going with the same fixture but instead of it being open faced, what we're proposing now is put a sandblasted glass in the pane. I'll share my desktop real quick. So this is a picture of that one that we put in as example. So you can see looking at the picture that it's open to the air today, in the new proposal we have we'll actually be putting a sandblasted which will help lessen that light. So with both the street lighting and that sandblasted glass, we came up with this secondary design. So it's very similar to the one before, the big change is once again are that sandblasted light, you can see that we have all the street lighting now modeled and we also have two additional fixtures that we needed to add to the side to help us. Now with all these changes, there was a reduction at the property line of anywhere between two to five or six foot candles. The biggest ones are right in the front and towards the sides by the existing fixtures. Now there were some smaller increases underneath the fixtures but we believe that smaller increase is a lot more beneficial with the lessening along the property line. Once again, this is to help us bring the ATM's into compliance with the New York State ATM lighting requirements and we feel that this is a great option for the bank. In our application we did also propose a secondary lighting design, it was also recommendations by the Board to possibly look into a design with the light poles. So we did design with light poles that match the existing street landscaping lighting, now we were able to get it work, we would have a total of 6 new fixtures again because you'll see these four light poles around the edges. This scenario is a little bit brighter than the previous one and there

is going to be more spillage just through the nature of these fixtures but we heard the Board's comments and we want to provide them another option if they felt the poles were a better option. Would be my opinion would be a little bit crowded with all the poles but it is an option that would work for Chase. Another recommendation that, or another request that the Board had was transactional data of the ATM, now that is proprietary information from Chase's perspective but are able to provide some information and see the qualifications on why we need the two ATM's, we looked at the ATM transaction data and we looked at that in a week in January from the hours of 6pm to 7 am, Monday through Friday and on the weekends from dusk to 7 am. And what we found is that between 42 and 45% of ATM transactions occur during that period. So that means that roughly half the ATM transactions occur when the bank is not operational, so that would be patrons of the bank using those ATM's. Now, once again we do feel that revisions we made to our design with the additional fixtures with putting in that sand blasted glass to reduce that brightness is a great compromise and helps you get that lighting perspective that the Village wants for this downtown area that the bank is located. And if the Board has any questions on the new design, I'd be happy to answer.

Mr. Weise stated can I just ask, do you have any sense of what the reduction in lumens would be with the sand blasted glass?

Mr. Albano stated from the previous fixture to the new one, I believe it's 800 with the sand blasted glass from the previous one, due to that dampening. But the foot candle levels, I'll bring up the older plan and do a side by side comparison. So this is both the New York State ATM 50 foot requirement, so going point by point, there are some that are little bit brighter, mostly because we do have the street right of way on but you can see as soon as you go points to the south you start getting half foot candle, a foot candle, two foot candles less bright. So it is a petty significant reduction, especially like spots here where you'll see from 10 to 4, so there is a great decrease with that sand blasted glass being installed.

Mr. Weise stated okay.

Mr. Alfano stated and would say this also includes the lighting for the existing ATM on the side of the building?

Mr. Albano stated yes, it will do that as well, help smooth that out and you'll have that wrap around with the fixtures too, kind of blending that entire façade in. And once again, that was part of the fun aspect of this project was with the columns, the location of the windows, trying to get everything to fit and provide adequate lighting, was a fun challenge for us.

Mr. Hoyt stated do you mind going through your alternate proposal? Two questions, number one I was surprised by how active those ATM's are, I'm assuming you didn't cherry pick a random weekend in January that happened to be a carnival or something. Those are representative of your average week but I surprised at how significant the usage was. So number one, please confirm that was not an outlier week. And number two, if you wouldn't mind going through the alternative just to see, I hear you about the overcrowding of poles but can you just refresh my memory of what it looks like as far as the stationary lights as well, the attached lights.

Mr. Albano stated yup, so first on the ATM transaction data, we did not cherry pick, this was pretty typically for the period that we saw in January...

Ms. Porter stated correct.

Mr. Albano stated it is important to note that there was the branch closure right down the street, so there has been an uptake of transactions. And that also goes with the way ATM's work in general, it provides that opportunity for somebody after work, going to a store to get their transaction, to get their money and even before they leave for work too. Being so close to public transportation, that wouldn't be unseen for somebody to go to the ATM beforehand in the morning hours when it's still dark out to withdraw some money. So the alternative design here is you'll see on the perimeter we have those three existing light fixtures, those are the standards from the Village. We are proposing four poles on the outside and then we still have to propose two wall mounted fixtures at the door to provide adequate lighting at that entrance and then there would still be the existing lights that were there today.

Mr. Hoyt stated the poles would mimic the...

Mr. Albano stated they would be the same style as the street right of way fixtures, they would be brighter because we need that larger intensity to get the New York State ATM lighting levels but in look they would be extremely similar...

Mr. Weise stated than this...

Mr. Albano stated they would exactly be the same. We would work with Peter who we worked with to get the cut sheets on these to make sure that we ordered the same exact look, bell top and finials that are out there today, that was the option that the Board would like to go with.

Mr. Weise stated and the Mount Kisco street lamp, how close is that one here in the corner?

Mr. Albano stated it would be about five feet.

Mr. Weise stated five feet, would that look a little strange maybe?

Mr. Albano stated it would look a little strange, with the crowing of the poles, that's part of the issue that you run into.

Mr. Weise stated okay.

Chairman Boxer stated can you tell me how much brighter than the Village Code this is?

Mr. Albano stated so the Village Code I believe is about a half foot candle at the property line. So there is areas closer to the bank that about right foot candles roughly, higher at the property line along Main Street, we have dropped it from that 10 foot candle reading which would be about nine and half over, to roughly a value of seven which would be able six and half. Now, once again, that's in combination with the street lighting, so there is some play with that lighting as well but we tried to reduce it as much as possible in order to get that overall spread throughout the site to meet the New York State ATM lighting requirements.

Mr. Weise stated so the bottom line is the poles will reduce the amount of lighting but you've got other visual issues...

Mr. Albano stated if I could just interrupt real quick. The poles are actually a little bit brighter...

Ms. Porter stated correct.

Mr. Albano stated than going fully with the wall fixtures because the wall fixtures do have the sand blasted, those options to match the street style throughout Mount Kisco doesn't have that. And also with the throws, they end up being a little bit brighter throughout the site. So the wall mounted ones would be lessened overall and that's what our preferred option is but we wanted to show that if the Board preferred to have the poles, that is an option that we'd be willing to work with.

Mr. Weise stated and these numbers are with the blasted glass?

Mr. Albano stated exactly, the ones on the left are.

Mr. Weise stated okay, okay.

Mr. Albano stated okay.

Mr. Hoyt stated and are there, so we've got blasted glass, I'm assuming like everything else there's 50 different varieties of shading that you can do. In other words, you've chosen blasted glass or maybe there's a name for it, are there any other, is that the only type glass manipulation that gets you to the lowest level but above the ATM requirement?

Mr. Albano stated for this fixture it is, the issue with this design is that we have throw our light forward and it's always more difficult to cut off a forward throw at the property line because you're going to be putting something in the front of the shield, so you're naturally going to be blocking the light that comes through. It's easier to back light it because what you want to light is in front of your fixture, so that light is not trespassing backwards. So we've looked at the options, this sand blasted glass for this fixture is the best option, it does reduce the lighting significantly compared to what was out there for your, the example one that we installed.

Chairman Boxer stated Whitney, can you explain to us the State law versus the Village law. My understand is that the State can't come in and just say you have to what we want to do.

Whitney Singleton stated yeah, it's not a question of them saying what they want to do. Ms. Porter had put in her memo some citations to the ATM Safety Act, suggesting that local Zoning was preemptive and clearly it's not preemptive. Any regulation regarding safety at the ATM machines is preemptive but you're still entitled to review this for aesthetics and for other, light trespass and spillage and everything else and

there is a provision in the ATM Safety Act that specifically acknowledges the applicant's responsibility to comply with the Building Code and local zoning. It doesn't mean that we can regulate necessarily the safety, in contradiction of what the State law has but it does allow you to enforce your Zoning.

Chairman Boxer stated okay, so...

Whitney Singleton stated that's 75-8 specifically acknowledges that you are entitled to comply to local zoning.

Chairman Boxer stated so how would that change if you back it down from the State...

Whitney Singleton stated well it's not one against the other, if you're evaluating this from the perspective of the aesthetics and the light trespass and the general benefit to the community versus the benefit, I mean the impact to the community versus the benefit to the applicant, that's something with your realm. I actually had a question on that topic but I think I identified it for you. I don't understand why the applicant is citing and perhaps its just my unfamiliarity with their nomenclature but why is the applicant citing the lighting requirements for outdoor ATMs as opposed to indoor?

Mr. Albano stated the section for, there is a combination at play for both. There is one specifically for open air outdoor ATM's but there is also section in there for enclosure internal ATMs and the lighting required outside of that.

Ms. Porter stated right.

Whitney Singleton stated why did you cite the requirements for the outdoor ATM as opposed to indoors?

Ms. Porter stated we put the requirements, they're forth on the plans that are in front of the Board.

Whitney Singleton stated well your memo specifically cites outdoor lighting specifications which I think are more significant. I mean, it's possible that I'm wrong and I know that the Board appreciates the fact that you're providing alternatives which is exactly what they asked you to do...

Ms. Porter stated right.

Whitney Singleton stated but I think your memo specifically cites...

Ms. Porter stated we cited to the criteria but we also list the information that we provided, the actual specific provisions cite all of the definitions and requirements under adequate lighting, so if you look at the attachment to the letter, that's the actual law itself and under section 75-B, definitions under adequate lighting, it's specifically indicates the amount of foot candles to be provided as specific dimensions.

Whitney Singleton stated for outdoor lighting.

Ms. Porter stated for all, it's says specifically that...

Whitney Singleton stated well there's...

Ms. Porter stated with respect to an open and operating ATM located within the interior of a building...

Whitney Singleton stated isn't that under 4-A? With respect to an automated teller machine located...

Ms. Porter stated within the interior of building, correct. Lighting on a 24 hour basis.

Whitney Singleton stated right but with regard to the outdoor under B, that's what you cited. It's of no consequence, I just want to make sure we're looking at the right...

Ms. Porter stated standards, correct.

Whitney Singleton stated minimum specifications.

Ms. Porter stated it should be 4-A.

Whitney Singleton stated okay.

Mr. Albano stated and there is also a section in 4-C that refers to the lighting outside of the interior ATMs which would go to that, the 60 foot and 30 foot.

Whitney Singleton stated right. I guess what my question is Anthony, which standard are you adhering to? The one with regard to 4-C and 4-A or 4-B?

Mr. Albano stated it would be 4-A and 4-C.

Whitney Singleton stated okay.

Mr. Albano stated because you have the interior ATM, so you have the lighting inside the vestibule which is outside of this scope and then you would have, C, B and C are pretty much to same thing, the really only difference is one refers to an open air, pretty much a drive-up ATM or a walk up ATM that's outside. And then C would deal with an ATM that's in a vestibule, like we have at both of the ATMs at this site.

Whitney Singleton stated okay, that's fine, so you're adhering to the standard C and you're providing the Board with alternatives and so long as the Board is reviewing this from a zoning perspective and is not unduly stepping on the toes of the State with regard to their focal concern of safety, that's fine. So the question is how do we get there and I think that the applicant's provided some alternatives, I don't know what the preference of the Board is.

Mr. Hoyt stated well I think, I'm in favor of the sand blasted approached. I'm in favor of the proposal generally speaking myself here. I think ATMs are critical to banking these days, I think that the current indoor ATM is a very pleasant looking, modern ATM and I'm sensitive to the fact that we don't want a glaring spotlight in the middle of Town but I think given the important of ATMs, given the usage of it and given the fact that it's a, will be a great convenience or is a great convenience to the foot traffic downtown during hopefully, when we can resume nightlife and restaurant usage. I think the sand blasted approach is my [inaudible].

Chairman Boxer stated what does the Board prefer? Do we want more, what they have or do we want them to step it down a bit?

Mr. Weise stated in terms of the what?

Chairman Boxer stated in terms of the candle lights. Because from what I understand...

Mr. Weise stated can they take one away? Is that what you're asking?

Chairman Boxer stated I'm just, the whole overall lighting scheme, it still puts a lot of light in the one area and I know that sometimes when you're driving, especially down the hill, you can get distracted by all of the light that's there.

Ms. Porter stated Anthony, is there a way we could explain exactly what the foot candle requirement is of the two. I know we touched upon this in the testimony at the property but the specific variance that we're seeking for lighting is based upon the foot candles at the property line along Main Street, not necessarily within the bounds of the property. So in terms of the purview of the Board the critical factor is once you reach the property line, what the foot candle is and I believe in the alternative showing, the sand blasted design we're at or around approximately four foot candles and that the ordinance requirement is .5 foot candles. So that allowed for a significant reduction of approximately six or seven foot candles from our previous design. So that would be our most significant change in terms of what they were previously were looking at in the last go around.

Mr. Albano stated yeah, exactly. Along Main Street, you have here this 4.0, that's where the 10 foot candle level used to be. Now the issue with removing a light is that the overlap between all the lights has been removed. We tried to space these out on the buildings with the fixture throws to get a level lighting experience that would meet the State ATM requirement. Once you take out one of these fixtures, that would then bring us into noncompliance with the New York Code. We have looked into other fixtures, we tried to use one that was as low as possible, that's why we went with the sand blasted glass on this one. Once you start going light levels below that, that's where we'd have to move into a situation that we have with our alternative where you have to provide something closer to the right of way to provide additional light in vicinity. Because you no longer have the light level up here, so you need these poles out here to help light up right along the property line, so that's the trade off.

Mr. Weise stated okay.

Mr. Alfano stated Anthony, back in January when you submitted the letter citing the law, the Safety Act. There was a minimum foot candle level of two foot candles measured at grade on a hard level plane for 30 feet, is that the one, just remind me, is that the one that we're trying to resolve for?

Mr. Albano stated we're trying to resolve all of the requirements.

Mr. Alfano stated in any case, the minimum, the highest level that's in the safety act is two foot candles, based on that January letter.

Mr. Albano stated correct.

Mr. Alfano stated okay.

Mr. Albano stated and you can see we try to get as close as possible in this new design, we have 2.8 which is less than a foot candle above it. Even closer to the building you can see this 2.3, that's part of that overlap too because these are lantern style fixtures, right underneath is a little bit darker so you need the play between the fixtures to get the required lumens values.

Mr. Weise stated I think the sand blasted panes is a good option.

Chairman Boxer stated anybody have any other comments? Peter, have you gotten any requests from the public?

Mr. Miley stated no, Chairman, we did not have the opportunity to tell everybody what number to call in, but nothing on Facebook. I'll just give my phone if they want to call in and comment [redacted for privacy]. In addition to that Chairman, we need to, depending on which one you select, you have to revise the request. You currently have a request for 9.6 foot candle variance, it's my understanding now it's going to be significantly less and potentially 4.0. So we will have to state what the actual variance request is.

Whitney Singleton stated let me comment on that, if there's a plan that your Board wishes to move forward with, I think what Peter is suggesting is that he and I should huddle with regard to the SEQRA forms and the resolution before you vote on it. You can give the applicant an indication as to what you're going to do but perhaps Peter and I can draft something in advance of your meeting. Correct Peter?

Mr. Miley stated correct.

Whitney Singleton stated alright.

Chairman Boxer stated I have no objections to that. Any other comments?

Whitney Singleton stated I have a question, sorry...

Chairman Boxer stated sure.

Whitney Singleton stated I need a little tutorial here and I think I got two sets of the same plans as opposed to the alternative, so I might be operating in the dark here. The, what is the required foot candles or lumens or whatever it is that is going to be required for this particular application so we can ascertain the degree of the variance necessary. Can somebody comment on that?

Chairman Boxer stated Anthony or Jennifer?

Mr. Albano stated yeah, so you're asking what the minimum required is through the area that we're required to light?

Whitney Singleton stated right.

Mr. Albano stated I'm trying to make sure I'm answering it correctly.

Whitney Singleton stated that's correct, under 4-C, are you required to have two, are you required to have two foot candles at all locations within 30 or 60 feet? I know it doesn't change your actual lighting plan, I'm trying to figure out what the requirements are under the ATM Safety Act for this particular application. So that we can recite it and recite what you're proposing and recite what degree of variance that would require from our Zoning ordinance, if that makes sense.

Ms. Porter stated right, so you would provide the provision of the ATM Safety Act which requires a specific amount of foot candles, what those foot candles are at the property line and what degree of variance that results in from the .5 foot candle requirement under the ordinance.

Whitney Singleton stated correct and I would also not only cite what degree variance the ATM Safety Act would be from our Zoning but also your actual plan, whatever plan the Board decides is their preferred plan. Because I believe some of your foot candle levels, just by definition are going to be above or below the minimum or at least above the minimum required, correct?

Mr. Albano stated yes, they have to be above the minimum requirement because we're required to get those light levels throughout. So we have the two foot candles at grade everywhere within that 30 foot radius, we have to get the two foot candles. The same applies to the other requirements as well, you need to have those minimum two foot candles for the 50 foot radius and the one foot candle up to the 60 foot radius.

Whitney Singleton stated and the plan that's on the screen now is a proposal to have 6 lights affixed to the building and those are all going to be frosted or sand blasted or whatever it is.

Mr. Albano stated correct, they'll all be sand blasted they'll be the same exact throw so they'll be uniformity between the lights so they'll look exactly the same and throw exactly the same.

Whitney Singleton stated and your maximum foot candle on this is what?

Ms. Porter stated maximum foot candle overall or at the property line because the Code requirement that we're seeking the variance for is at the property line.

Whitney Singleton stated that's fine, at the property line. That's a good point actually. So would that be 4?

Mr. Albano stated along East Main Street would be that 4, which it will be 2 foot candles higher.

Mr. Alfano stated which would be a 3.5 foot candle variance.

Ms. Porter stated correct.

Whitney Singleton stated and the other plan that you had, I don't know what the Board's preference was, that's with the light poles?

Mr. Albano stated yes, so this one would be about 5.6 higher, so that would be that light level right here.

Mr. Alfano stated my opinion would be to pursue the other option, I think this becomes a little too cluttered with the existing structures of the Town.

Chairman Boxer stated I agree we should not go with the poles.

Mr. Weise stated I agree with that.

Whitney Singleton stated okay.

Chairman Boxer stated Peter and Whitney, you're going to have to sit down and look at the revised plan and they're going to have to submit a request with the actual variations they want, is that correct?

Whitney Singleton stated okay. Can somebody just tell me because I don't have the plan in front of me, other than on the screen. What is that plan referenced as...?

Mr. Albano stated a...

Whitney Singleton stated oh, maybe I do have that plan, I'm sorry, I apologize.

Mr. Albano stated the other one is specifically labeled as an alternative ATM lighting plan.

Mr. Hoyt stated the problem is that its really hard to read the actual lighting levels until you zoom in on your screen.

Mr. Weise stated yes, that's right.

Whitney Singleton stated that's the one that says horizontal plane?

Mr. Albano stated yes.

Whitney Singleton stated I have that, I'm sorry.

Mr. Albano stated yeah, it should be one dated May 7<sup>th</sup>.

Ms. Porter stated Mr. Singleton stated would it be possible tonight prior to ending our discussion to do a straw poll of the Board, or to get a better idea in terms of, you know we have no problem, obviously you'll be working on the SEQRA forms and working on a resolution. But just to, like you had suggested, get a better understanding I guess of the Board's direction in terms of, they've given their preference...

Whitney Singleton stated I know where you're going with this, that's totally up to the discretion of the Board.

Ms. Porter stated okay.

Whitney Singleton stated I've never seen this Board pull the rug out from anybody but if members want to express their individual preferences, that's up to them.

Chairman Boxer stated anybody object to a straw poll?

Mr. Weise stated no.

Mr. Hoyt stated no.

Mr. Alfano stated no.

Chairman Boxer stated okay, does anybody, does everybody, would everybody want to accept the plan with the lights and the sand blasted glass?

Mr. Hoyt stated yes.

Mr. Weise stated I think that's fine, yup.

Mr. Alfano stated yes.

Chairman Boxer stated okay, Jennifer, there you go.

Ms. Porter stated thank you.

Whitney Singleton stated we'll bring in the other members next time.

*Laughter*

Chairman Boxer stated we'll just keep the public hearing open and we'll come back to this next week, I mean next month.

Whitney Singleton stated does the Board have any objection if I share a draft of the resolution with the applicant just to make sure there's not mishaps?

Chairman Boxer stated that's fine.

Ms. Porter stated thank you.

Whitney Singleton stated okay. Thanks.

Chairman Boxer stated then we'll go to the next...

Mr. Albano stated excuse me real quick, when is the next Board meeting? Just so I can write that down.

Mr. Miley stated June 16<sup>th</sup>. Chairman, before you move on this application...

Chairman Boxer stated yes.

Mr. Miley stated one other item, the Architectural Review Board expressed interest in seeing the revised lighting plan. Anthony, if you can send me over an elevation, I'll shoot it to the Board, with the proposed lights that the Board just indicated that they were potentially going to vote on in favor.

Mr. Albano stated okay.



Mr. Miley stated thank you. That was it Chairman.

Chairman Boxer stated okay, then we'll go to the next case on our, thank you Anthony.

Mr. Albano stated thank you everybody.

Ms. Porter stated thank you.

Chairman Boxer stated you can leave the meeting so we can go on.

Mr. Miley stated have a good night.

Chairman Boxer stated bye. Okay, then the next one is Mary C. Farrell. Is anybody there for this?

**2. Mary C. Farrell  
30 Emery Street  
Mount Kisco, NY 10549  
(SBL) 69.64-5-5**

**ZBA# 20-2  
Area**

Mr. Mark Farrell was present.

Mr. Farrell stated good evening.

Whitney Singleton stated hey Mark.

Mr. Farrell stated good evening all, my name is Mark Farrell.

Chairman Boxer stated you are, are you?

Mr. Farrell stated here on behalf of Mary C. Farrell, my wife, regarding the property that is our family home.

Chairman Boxer stated okay. You want to go forward and explain?

Mr. Farrell stated the property has an 8 by 16 wood shed, with a shed style roof that's been there since at least 1952. We're looking to put a different style roof on it, a gable roof, rather than a shed roof because in the time that we've owned it, twice the roof has been rotted through because leaves and branches collect on it and it's a little difficult, particularly now that I'm more advanced in aged. It's tough to get up there and clean it off and if you don't clean it off, it just sits there and everything rots. A gable roof I think would shed leaves and branches and while we're at that, we're just looking to put an overhang on the front to make it look nice, have a place to put my rocking chair on the front porch of it and enjoy the backyard. It, we need two variances, one is a side yard variance, the shed exists, it's on a concrete slab, I could move the shed but the slab would be a little hard. And then the other variance, I was never familiar with this section of the Code, it says you can't project closer to the front or side yard lines than the principal structure. I understand the front line, I do not understand the side yard line, I don't know what it does for anybody other than increase the setback requirement for the principal lot. Our house is about 25 feet off the side yard and the shed is 150 feet back from the road, about 150 and it's about 150 feet from the rear boundary. I really don't understand that section at all, I don't know what it's supposed to accomplish but it is what it is. We're looking for a variance from that also. We are looking to increase the height of structure by about 3 ½ feet which I think di minimus, I have spoken to the neighbors, there's really only two neighbors who see it, one to the east of us and they have a hedge along their boundary that is as high as the structure and then across the street, they see it from the road but I spoke to both of them and they didn't have any objection and they may have sent in e-mails to that effect, I don't know. I don't have the ability to give you visuals of the application, I think you all have the application packet...

Chairman Boxer stated we have it in front of us. Any, I'll look to the Board, any comments?

Mr. Weise stated I have a question...

Mr. Alfano stated I have a question for Peter. You mention in the letter to Ms. Farrell, that it's a noncomplying structure, what do you mean by that?

Mr. Miley stated with regard to dimensional setbacks, noncomplying.

Mr. Alfano stated okay, got it. I wasn't sure if it was in regard to something else.

Mr. Farrell stated the roof is not compliant to the Building Code in it's present condition...

Mr. Weise stated is the...

Mr. Farrell stated the last calamity was a rather large tree branch went right through the top of it.

Mr. Weise stated can I ask, is the intended use of this shed going to change with these upgrades.

Mr. Farrell stated no, just a shed to store summer furniture, tools, garden equipment, that sort of thing.

Chairman Boxer stated and you want to be on the porch to get away from your wife?

Mr. Farrell stated I might put two seats there Harold, rocking chairs.

Chairman Boxer stated just checking. Any other questions?

Mr. Miley stated Chairman, I just want to add recently we received one e-mail and one phone call, both from neighbors of Mr. Farrell in favor of his application. Just to give you a heads up of what you received.

Chairman Boxer stated okay great.

Whitney Singleton stated for the record, can I know? Comments in support from neighbors, do you have who they are?

Mr. Weise stated can you tell us where they are in relation to this structure.

Mr. Miley stated yes, we have their information and Michelle indicated that she can email them to you Whitney.

Mr. Weise stated are they going to be the neighbors that look on to this or are they further away?

Mr. Miley stated Michelle indicated that the e-mail directly would be affected if the site exceeded the height above the hedges.

Chairman Boxer stated so that would be the side and then the neighbors across the street, they both are in favor?

Mr. Farrell stated that would be my guess from comments made to me directly, I haven't seen their comments that were submitted.

Mr. Miley stated we can provide addresses also, Chairman.

Chairman Boxer stated okay.

Mr. Hoyt stated does this mean you're getting a riding mower, Mark or is it, is that what this is really about? A fancy John Deere?

Mr. Farrell stated actually I'm looking for a John Deere but not a mower, I'm looking for a full fledged tractor.

Chairman Boxer stated alright, are you going into business?

Mr. Farrell stated no, not that business. Our home doesn't have a basement so we wind up putting this out in the shed and the house was built in 1952 and lifestyles have changed, we've all accumulated a lot more stuff.

Chairman Boxer stated yup. I'm not leaving the meeting I'm just going to close a door.

Mr. Alfano stated this is not related to your application but I find it interesting that the town line of New Castle and Bedford went right through your property.

Mr. Farrell stated if you look at it, at the time the house was built, the bedrooms were in New Castle, the rest of the house was in Bedford. There was a time when I had the ability to speak directly to the supervisors in each of those times and they gave me a lot of grief and I would petition for undoing our succession from them and I would run against both of them.

Chairman Boxer stated any other comments?

Mr. Miley stated nothing from the public, Chairman.

Chairman Boxer stated can we vote to close the public hearing, motion please?

**Mr. Weise introduced a motion to close the public hearing. Mr. Hoyt seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 4 to 0.**

Chairman Boxer stated okay, so now we get down to the issue at hand. I think the property is, I don't have a problem with it because it's not going to really bother anybody so far back from everything. Any other thoughts?

Mr. Weise stated I agree.

Mr. Hoyt stated I'm surprised that the new roof, the proposed roof is only 3 ½ feet higher than the original, or the current roof so, to be...

Mr. Farrell stated we thought of going condo but we didn't have the financing.

Mr. Hoyt stated I think it's a clear improvement, I'm in favor of it. It might be a very di minimus issue.

Chairman Boxer stated Whitney?

Whitney Singleton stated yup.

Chairman Boxer stated can you put all the five factors in your resolution for us?

Whitney Singleton stated they're already in.

Chairman Boxer stated so we don't need to go through them.

Whitney Singleton stated does everyone realize you have draft resolutions before you, in your e-mails?

Chairman Boxer stated no, hold on let me go, I don't know if I can get there without getting out of this.

Whitney Singleton stated that's okay.

Chairman Boxer stated no, I got it, hold on.

Mr. Farrell stated in the written statement, I tried to address those factors. I did address them, whether they are to your satisfaction or not, I don't know.

Mr. Farrell stated it's not self-created, it pre-exists me. I happen to grow up next door, the property to the west, so I've seen that shed my whole life.

Whitney Singleton stated Chairman, would you like me to read what was drafted for your Board since maybe some people don't have it.

Chairman Boxer stated sure.

Whitney Singleton stated okay. Specifically the Board has determined that no undesirable change will occur to the character of the neighborhood as the proposed design is consistent with the manner in which this neighborhood has evolved. The shed has existing in the same location for some 70 years, it is located about 150 feet from both the front and rear property lines. The four foot extension to the front of the shed and increase in building height of approximately 3 ½ feet is inconsequential. The neighbor's tall hedges shields it from their view. The gable roof is consistent with the predominate building style in the neighborhood. The extensions of the shed is towards the interior of the applicant's property, no neighbors have objected to the requested variances. The benefit sought by the applicant cannot be achieved by a feasible method other than a variance, particularly because the shed is already nonconforming with respect to the side lot line. This variance is in terms of the minor enlargement of the structure and the context of it's preexisting location are insubstantial. There will not be an adverse impact on the environment, the topography, drainage and general site conditions do to appear to present any impediments or issues for the proposed shed enlargement. The shed is well screened from the neighboring property as set forth above. And while the alleged difficult was self-created, it is mitigated by the fact that the shed and the slab on which it sits were in place for nearly 4 years before the applicant acquired the property. And in any event,

it is not fatal to the application as it does not outweigh the other factors favoring the variance as set forth above.

Chairman Boxer stated okay. I think it's fine. Do I have a motion to accept that? Nobody?

**Mr. Hoyt introduced a motion to grant the variance pursuant to the Village Attorney's resolution. Mr. Weise seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a motion of 4 to 0.**

Whitney Singleton stated who was the second?

Mr. Weise stated Arthur.

Whitney Singleton stated okay.

Chairman Boxer stated okay, there you go Mark.

Mr. Farrell stated the variances are approved?

Chairman Boxer stated yes.

Mr. Farrell stated I thank you all. Have a great zoom, zoom meeting.

Chairman Boxer stated we'll try.

*Off topic discussion.*

**3. JSN of NY, LLC  
7 West Street  
Mount Kisco, NY 10549  
(SBL) 80.40-4-11**

**ZBA# 20-3  
Area**

Mr. Anthony Congello and Mr. Ed Gemmola of Gemmola and Associates and Mr. Adan Villeda were present.

Chairman Boxer stated next is JSN of NY. Anybody here for that?

Mr. Congello stated yes.

Chairman Boxer stated okay.

Mr. Congello stated hi my names Anthony from Gemmola and Associates, I'm here with the property owner and also Ed Gemmola who's the architect.

Chairman Boxer stated okay, can you guys for the record, can you spell you name.

Mr. Congello stated mine is Anthony C-O-N-G-E-L-L-O. And then Adan V-I-L-L-E-D-A. And them Edmund G-E-M-M-O-L-A.

Chairman Boxer stated okay, thank you.

Mr. Congello stated okay, so we have the property 7 West Street in Mount Kisco. The property has been before the Planning Board for site plan approval, which we have received. We just need a variance for coverage, which we have decreased significantly. We had, it was a one-family residence going to a two-family residence and the coverage calculation was as on the zoning tabulation of SY-102 was 55,091 down to proposed 37,025. We are removing a two-car garage and a wooden deck.

Chairman Boxer stated but you're paving that area over there, correct?

Mr. Congello stated correct, it's going to be, where the garage was, there's a retaining wall, we're going to put a guardrail along the grass and then pavement in front of that.

Chairman Boxer stated have you counted the pavement in your coverage?

Mr. Congello stated yes.

Chairman Boxer stated okay. I don't know if the Board has it but there was one objection to this. Anybody want to comment on it, have these guys all seen it?

Mr. Alfano stated yeah I saw the objection in the packet we received.

Chairman Boxer stated I guess we can give the applicant a chance to reply to this. The main inquiry is that the objection states that its perceived that it may be a childcare business going on illegally in there. And that there are a lot of cars coming and going all day long...

Mr. Congello stated I'm not aware of that but the property owner is here. I'll give him a chance to speak to you guys.

Chairman Boxer stated okay.

Mr. Villeda stated good evening, my name is Adan Villeda, I'm the owner of the house.

Chairman Boxer stated okay, we did have an objection that we'd like you to comment on, there's a lot of cars coming and going and children being dropped off all day long. It hasn't been inspected but the objection considers that to indicate a possible childcare situation going on.

Mr. Villeda stated not that I am aware but I will keep my eye on it. I will talk to the tenant that if that is going on, you know that they cannot have that and it's not in my interest to do that. You know, I'm just renting the house but if they're doing that, then it's not in my knowing. You know I'm not going to worry about that.

Chairman Boxer stated Peter, do we have the basis to do an inspection?

Mr. Miley stated Chairman, I'm on the block often, I checked twice after receiving the letter, I didn't see any evidence during a regular day.

Chairman Boxer stated okay.

Mr. Miley stated but I can, if the owner allows me, happily inspect the property for you.

Mr. Villeda stated of course, you have my permission.

Mr. Weise stated when you did that inspection, because the world has changed quite a bit in the last two months.

Mr. Miley stated I'm Arthur, I didn't hear your question.

Mr. Weise stated I said the, did you do this prior to the Covid lockdown...

Mr. Miley stated oh yeah, this was last week and this week. So it wasn't an interior inspection, it was just a drive-by.

Mr. Weise stated so if in fact when people get back to work, this is being used, we wouldn't have figured that out with your inspection.

Mr. Hoyt stated hey Whitney, would you mind, maybe there's nothing to say but walking us through the status of this conversion to a two-family house. What boards has this been through, there's obviously a lot of working going on here...

Mr. Villeda stated yes.

Mr. Hoyt stated we have our specific variance that we need to approve or at least review, but what else Whitney is going on as far as, and what's the status as far as any other approvals they need?

Whitney Singleton stated okay they and Peter will jump in if I go astray here. But they needed approval to convert from a single-family to a two-family house, that requires Planning Board approval. They have been before the Planning Board proposing to take down the garage, put in a parking area and expand the house to a two-family hours. The Planning Board has approved but they have approved it subject to them, the applicant being able to secure a variance from your Board. The Planning Board did not endorse or oppose the application before your Board.

Mr. Miley stated Chairman?

Chairman Boxer stated no, I hear that.

Mr. Miley stated Chairman, I can just add, this house is prior to Adan's ownership with it, unlawful three-family. It was given a court appearance ticket, brought back down to a one-family and now the new owner Adan, is trying to convert back from a one to a two-family which is permitted in the zone. However, there were a couple of issues with development coverage, including the garage that didn't have a CO which they agreed to pull down and the rear deck that also had no permit or CO which is also proposed to be removed.

Mr. Hoyt stated so is the, are the removal of those noncompliant features, is that what's bringing the coverage down or what's been the, what's caused this coverage ratio to come down so dramatically from what it was before?

Mr. Miley stated well they've modified the landscape significantly, they've reduced the size of the driveway, the pervious and impervious area, they increased the pervious area with some grass behind the driveway. They've now removed the entire deck which is considered coverage and also add some landscaping to the entire site was significantly over development, it still requires a 725 square foot variance. However, it was reduced, I don't have the exact numbers but significantly.

Mr. Congello stated 1866 square feet reduced.

Mr. Miley stated thank you.

Mr. Alfano stated is the size of the house changing to go from a one-family to a two-family?

Mr. Congello stated no, there's a basement apartment that is going to be the two-family. And as well, the garage structure is now down and so is the oversize deck, those are both, we received a demolition permit and those were both removed.

Chairman Boxer stated is the owner going to reside at the premises?

Mr. Congello stated no, it's a rental property.

Mr. Villeda stated no.

Chairman Boxer stated you're saying that the second apartment is a basement apartment.

Mr. Congello stated right but there's no one in it right now, it's vacant, the kitchen's not finished yet, its undergoing construction which they need a permit which all goes on your approval of the variance and then we get a permit to do the rest of the work to finish the site plan, et cetera.

Chairman Boxer stated Peter, have you looked over the basement apartment to see if it complies with the law?

Mr. Miley stated previously, this was a couple years ago, it did not comply. Proposed, it does comply with Code. And I just want to make one more point of reference, the other area in the rear, because it's going from a one-family to a two-family, they need to provide two additional parking spaces, so that will also add to the development coverage.

Mr. Hoyt stated what could be done, what have you thought about and obviously rejected in order to bring the coverage ratio down to what 3,000? Was there anything that you have thought about or is it in your mind a physical impossibility to bring it down to the requirement?

Mr. Congello stated it's pretty hard because the driveway is so big, I mean we could, to put all the off-street parking back there, we need the driveway, so that is where most of the coverage is coming from. Like Peter said, we put grass in the back, we're going to try to put grass in front of that retaining wall and put a guardrail there and add some grass to the side of the house, so we you know decrease it as much as we possibly could.

Mr. Hoyt stated and the requirement is...? Is it four parking spots required, the minimum?

Mr. Congello stated yes.

Mr. Miley stated yes.

Mr. Alfano stated that's what I was going to ask.

Mr. Hoyt stated yeah, the drawing looks like a parking lot back there. Granted they have a car backing in but it looks very big and I assume that's minimum size required.

Mr. Congello stated 25 feet is the minimum size for the width.

Mr. Miley stated Chairman, also let me add that in addition to providing the four spaces, the Code requires that they provide an area to turn around so that they don't back out onto the street. So that also takes some additional space adding to the development coverage.

Chairman Boxer stated Whitney, if they put in...

Mr. Alfano stated Anthony, what, go ahead Harold.

Chairman Boxer stated if they put in the pavers that allow the water to go through, does that reduce the coverage?

Whitney Singleton stated no.

Chairman Boxer stated okay.

Whitney Singleton stated any area that they park on, whether it's pervious or impervious, is deemed to be development coverage.

Chairman Boxer stated okay.

Mr. Hoyt stated that leads to a question that's maybe outside this Board's purview but run off, we have what might be a large macadam back there, how is that going to handled? Are we going to create a flooding problem for the neighbor?

Mr. Miley stated Chairman, this was before the Planning Board and the Engineer has an opportunity to comment on the stormwater runoff.

Chairman Boxer stated so they're not going to comment until we decide one way or the other on the variance, correct?

Mr. Miley stated the engineer did review but I don't have his comments in front of me. If you'd like to provide them to the Board, I can e-mail them to you.

Mr. Congello stated also we're going to have an engineer go out there tomorrow and he's also going to take a look at the wall and certify the wall to certify the wall and if there's any stormwater or runoff, I'm sure he can address it.

Chairman Boxer stated I don't think, while I'd like to be able to comment, I don't think our Board has any authority over the drainage, is that correct Whitney?

Whitney Singleton stated well, except that one of the factors is the impact on the environment. But I guess you would have to disagree with the Village Engineer that it hasn't been adequately taken care of and obtain somebody to ascertain that it's not being adequately taken care of. Your Board is certainly not bound by the Planning Board but the Planning Board does do the planning for the utilities and the drainage and the access and everything else. You Board has your independent authority, I would think the focus would probably be more, what is the benefit to the applicant in securing a second apartment versus maintaining the neighborhood character by having a single family home and not having so much impervious surface.

Chairman Boxer stated can someone explain, can you explain why you want it to be a two-family rather than a one-family.

Mr. Villeda stated yes, the thing is you know when we bought the house they were using it as a two-family but that was illegal, only one apartment was approved. They were using the basement as a second apartment but since I bought the house you know, I talked to the Town, they told me what process I need to do and we've been working on this to try to get two families to convert family from one-family to two-family. The benefit, you know, it would help with, it would help out with the you know, the expense we already did and you know to keep it neat and that's it.

Mr. Hoyt stated and how many two-family homes are on this street? I'm assuming a fairly high proportion...

Mr. Miley stated George, are you asking me the question?

Mr. Hoyt stated yeah, I guess so Peter.

Mr. Miley stated there are several, it's a two-family zone. There's a mix of one and two-families on the street.

Mr. Alfano stated so it seems like what's driving the development coverage is more like Anthony said the driveway is a big portion of it but also the requirement for having space for four cars. Would you agree with that Peter?

Mr. Miley stated the requirement for parking, minimize size is 9 by 20 or 9 by 18 ½ to do quick math, its close to 400 square feet for parking space and then the significantly larger hammerhead. So yeah the two spaces are contributing.

Mr. Alfano stated yeah, that adds up quickly.

Chairman Boxer stated let me ask the Board, do you want to get a copy of the engineer's report? Anybody? I'll take that as a no.

Mr. Weise stated my preference would be to investigate this letter and see if in fact this is a property that's being actively used beyond a dwelling. And we're not going to be able to figure that out until we return to somewhat of a more normal situation.

Chairman Boxer stated Whitney, if it was a childcare, is there any way to bring it into compliance?

Whitney Singleton stated you mean to discontinue the childcare facility?

Chairman Boxer stated well can they have a childcare facility in there?

Whitney Singleton stated yeah, if they meet certain requirements. Peter probably knows what those are better than I do but you have to have the ability to actively drop off and pick up the kids and that's not what's been represented to your Board as the underlying use.

Mr. Hoyt stated Peter, I forgot my question, I'll think of it in a second.

Whitney Singleton stated does your Board want to conduct a site visit? Or individually go by the property and inspect it or have you already done that?

Mr. Weise stated my only point is that we can't adequately vet this concern until we are back to a more normal environmental and I don't know when that will be but it's certainly not now.

Mr. Hoyt stated but Arthur, isn't there another way to get at the same issue. It doesn't seem fair to wait six months or a year to move forward on things like this. Isn't, what I was going to ask Peter is. Two family homes, what's the inspection requirement? Can we add an inspection requirement if it's not here to allay the concerns of this neighbor or this person that wrote the note? The potential two-family house stays in compliance, is not running an illegal nursery and is up to Code.

Mr. Miley stated I think George to start, first the owner would have to agree and let me into the home. If he doesn't allow me or doesn't agree then I would have to do a little surveillance and seek a warrant to get inside the home with justifiable evidence. As far as the State law, only if there's construction or eminent danger that allows me to go in and inspect the home. Not at random because of a random complaint, I would have to do my due diligence in order to prove there is a valid complaint.

Mr. Hoyt stated I thought multi-family homes had a...

Whitney Singleton stated its not a multi-family home.

Chairman Boxer stated multi-family is three or more.

Mr. Miley stated correct. By State law, three or more.



Mr. Villeda stated can I speak? Mr. Peter, I'd be more than happy to walk you through the house but you know my tenant would want to vacate. I just want to legalize my single-family to two-family house and I'm not looking to do, I'm not in that type of business. If they want a daycare and they're abusing me, then I'd have to throw them out but it's not my intention, I don't have nothing to do with that as a landlord, I can go with you anytime you want, I don't have no problem with anybody of the Board. I'd be more than welcome, you know you just have to let me know when you're going to be there and I'd be more than happy and you know we've been going on a long time and I just want to get this through Planning with the Village. I don't have no reason to run a daycare, it's not my intention but there's not the space to do that, not my type of business.

Chairman Boxer stated do you have written leases with the tenant? You have a written lease?

Mr. Villeda stated yes.

Chairman Boxer stated and because I think the standard written lease allows you to evict the tenant if they're violating the law.

Mr. Villeda stated I'm going to speak to them, now I found out this but you know they, whether or not they have to stop that but I don't know anything about that until now.

Chairman Boxer stated is the current tenant, which I assume is the one that they're complaining about, do they have a written lease?

Mr. Villeda stated yeah, they have a lease.

Chairman Boxer stated I kind of agree, we don't know when things are going to go back to normal and make him wait would not be in our interest or his interest. I was just wondering if there's some way that we can get permission at a later day to come in and inspect.

Mr. Villeda stated we don't have, if you're going to the house it doesn't look like a daycare. They don't have no games around the house, they don't have no playground, so I don't know why they talking about. But in this case, I will ask you the Board to approve this with a solution, I will talk to the tenants, you know they cannot, if they've been doing that they cannot do that and I can assume responsibilities for.

Chairman Boxer stated right. Whitney, can that be a condition of the approval?

Whitney Singleton stated yeah, if the applicant represents that you have four parking spaces on the site and ingress and egress is difficult, if they want to stipulate that it's going to be used solely for two dwelling units and no other uses including businesses or daycare facilities, that's up to them as a precondition, that's fine.

Chairman Boxer stated okay because I think...

Whitney Singleton stated I think what the applicant is telling you is that he's willing to stipulate to that.

Mr. Congello stated yes, he is.

Mr. Hoyt stated Whitney, isn't that illegal in any event, I mean so he's stipulating to not violate the law? Is that what we're asking him?

Whitney Singleton stated what you're doing is considering allowing him the use of the property, the use that he's proposing is allowed, the use is a two-family use in a two-family zone but he's not going to be meeting certain of the criteria with regard to development coverage.

Mr. Hoyt stated but if he were to want to hypothetically magically operate a daycare center, hypothetically, I assume he'd have to get additional approvals from somebody.

Whitney Singleton stated but not from the Village.

Mr. Hoyt stated who would he get approvals from?

Whitney Singleton stated it's division of childcare services I believe is what it is.

Mr. Hoyt stated is that Westchester County?

Whitney Singleton stated yeah and I don't know what the rules are with regard to two-family and multifamily housing, whether you can it there but I do know that if any applicant stipulates to something that's an enforceable condition. If an applicant says I'm going to have a 30 foot non-disturbance buffer, that's enforceable. If the applicant is going to grant an easement to the Westchester County Land Trust, that's an enforceable, if there's easement or some other restriction or covenant with regard to a sewer line or water line or joint access agreement, those are all enforceable. If the applicant proposes...

Mr. Hoyt stated it seems to me that the letter is complaining about illegal childcare service not a legal one. I'm happy to have him stipulate it, I'm just making the point that the letter suggests that its an under the radar, illicit drop my baby off, watch it for three hours and I'll come back. Which I'd like to think, well, I don't mean to argue with you, I'm happy with that stipulation. That's the concern the neighbor raised and the owner is willing to stipulate to that, that seems like that would clear up everything.

Whitney Singleton stated and certainly like you did with Chase, this may be one you want to see the resolution before you vote on it.

Chairman Boxer stated did you prepare a resolution for it? No, you have to amend it now?

Whitney Singleton stated yeah.

Mr. Hoyt stated does it put too much pressure on you Peter and the Town to stipulate annual inspections if the owner wants to go that route.

Mr. Miley stated I'm not sure if I can enforce that, go ahead Whitney...

Whitney Singleton stated let me just word it another way. The applicant has indicated that Peter is welcome to come over and inspect as part of his application. So we can incorporate that into the resolution.

Chairman Boxer stated okay.

Mr. Miley stated George, were you referring to annual?

Mr. Hoyt stated I was referring, I mean the concern is you know that, I was referring to something on the routine basis. Again, I'm fine with what Whitney said, it's a little more vague but it suggests an ongoing...

Whitney Singleton stated periodic.

Mr. Hoyt stated yeah, an ongoing, a representation that they're willing to work with you and the Town to allay any concerns about housing.

Mr. Miley stated typically George, once you have a two family and you are renting the property, you have to file the landlord registry, indicating the uses and then we call and request that we do a safety inspection on the property.

Mr. Hoyt stated that's what I was referring to before.

Whitney Singleton stated okay, why don't, to address your concern George, why don't we simply do this. Ask the applicant if he would be willing to stipulate to participating in the Landlord Registry program like other people do, so that there will be an annual inspection like there are in other homes.

Mr. Villeda stated once I make a two family house, I do that every year because I have another property in Mount Kisco and once a year you fill out the landlord application and registration, whatever you call it sorry. I agree that, once a year, I get the proper inspection from the Village.

Chairman Boxer stated okay, we can make that a part of the resolution then Whitney.

Whitney Singleton stated okay.

Mr. Weise stated I think that's a good resolution.

Chairman Boxer stated did you write up something Whitney, as to the five factors or...? I'm trying to cut time out of the meeting...

Whitney Singleton stated so what my suggestion to you would be, I have a draft that I've sent to each of you. I would like the opportunity if it's okay with the applicant, to go back and it's okay, more importantly it's okay with your Board. That I have an opportunity go back and look at some of the conditions and

whereas clauses and stipulations instead of just operating off the cuff. Then we can put it on for June 16<sup>th</sup>, if that works for your Board. Unless you feel the compulsion to do something now?

Mr. Hoyt stated what does the applicant feel about that delay?

Mr. Congello stated we kind of started doing the demolition process already. So we want to get going through the whole site plan, and get the property improved. So if you guys can vote on it...

Whitney Singleton stated are you okay with the Board approving it subject to a written resolution being approved at the next meeting?

Mr. Villeda stated I'd like to get it done tonight.

Whitney Singleton stated no, no, they can approve it subject to the adoption of a written resolution.

Mr. Villeda stated I promise no daycare is going to run out of that property. It's not a daycare, it's not in my interest to have a daycare now or ever over there.

Whitney Singleton stated so I would revise the resolution to reflect that the applicant has represented that it is not being used for any other use beyond dwelling units and is not proposed to be used for any other use beyond dwelling units and that he consents to participating in the Landlord Registry Program and subject to annual inspections.

Mr. Congello stated correct and I will have the property owner do an investigation or find out if there is something going on there with a daycare or people dropping their kids off, et cetera. If that is the case we will discuss it and possibly evict the tenant.

Chairman Boxer stated okay, so are we going to keep the public hearing open until we give final approval on the resolution?

Whitney Singleton stated Chairman, just speaking candidly how we've done things in the past. Sometimes your Board has voted on some things where you have a resolution in front of you but general speaking you vote on resolutions subject to the adoption of a written resolution specifically setting forth the conditions and updating the conditions. So if you want to vote on this subject to me finalizing the conditions that you set forth tonight, that's not a problem. The applicant can continue it's work subject to your Board adopting the final resolution at the next meeting.

Chairman Boxer stated okay.

Whitney Singleton stated so you can close the public hearing and vote on it now.

Chairman Boxer stated anybody...

Mr. Miley stated Chairman, can I interrupt for a second.

Chairman Boxer stated sure.

Mr. Miley stated just prior to closing the public hearing, on Facebook there's no comments. And I just want to tell everybody the phone number to call in if there's any addition comments, to give anybody the opportunity to call in. Am I correct in saying that Whitney?

Whitney Singleton stated yeah, yup.

Mr. Miley stated [phone number redacted for privacy]. If you have any comments, I'll relay the information to the Board but right now we have nothing on Facebook.

Chairman Boxer stated we could take a five minute break, no yes?

Mr. Miley stated you call Chairman.

Chairman Boxer stated I don't know if he's going to do anything, we have the letter already, I don't know what more can happen. So I'm willing to approve subject to the approval of the final resolution. Any other comments from anybody?

Mr. Miley stated Chairman, you have to close the public hearing first.

Chairman Boxer stated I know, I just want to make sure we can do that. Okay, so I need a motion to close the public hearing.

**Mr. Hoyt introduced a motion to close the public hearing. Mr. Weise seconded the motion.**

**Chairman Boxer asked for all favor. The motion carried by a vote of 4 to 0.**

Chairman Boxer stated okay, so I think what we have before us is the granting of the variance subject to the final resolution being approved. Anybody want to add anything to that? Okay and can I get a motion to approve?

**Mr. Hoyt introduced a motion to approve the granting of the variance subject to the written resolution being drafted. Seconded by Mr. Alfano.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 4 to 0.**

Chairman Boxer stated anyone opposed? Okay, the variance will be granted subject to the final resolution being approved.

Mr. Congello stated okay, thank you very much.

Mr. Villeda stated okay, thank you.

**4. John Pappas  
6 Allan Lane  
Mount Kisco, NY 10549  
(SBL) 69.67-2-6**

**ZBA# 20-4  
Area**

Mr. Sid Schlomann of SI Design and Mr. John Pappas were present.

Chairman Boxer stated okay, the last case is right down the street from me, 6 Allan John Pappas, is anybody here for that?

Mr. Schlomann stated yes we are, Sid Schlomann, the architect is here and John, the owner is on as well. So I'll kind of go through the application. Basically, can you see the screen?

Chairman Boxer stated yes.

Mr. Schloman stated so basically the proposal is for, it's a one family residential property, we are proposing a rear addition on one side, we're doing a deck that's fully Zoning compliant. On the other side we're doing an addition that aligns with the existing house, it's a one story addition. As you can see the house is not parallel to the property line so the setback kind of cuts off the addition that we're trying to achieve, so there's a small portion as you can see in here, this little triangle area here that falls into the required 10 foot setback, that requires a variance. The setback that we will achieve is 8 foot 10 [inches] out of 10 feet, so we need a 14 inch variance and in terms of the total addition that's required, it represents about 3% of the square footage that will fall into that area. I'll just kind of go down just so you can see, the purpose and the intent is to, hang on, I lost it. The proposed addition, basically here you can see the foundation on the left side here, the 10 foot 5 will align with the existing, so mainly our goal to align is for the ease of construction for aesthetic value and basically for the roof lines. The addition will be a bathroom and closet for the master bedroom right now, in addition to other things going on in the house but that's the provocation before you. And we can see from the elevations here, that this will be a seamless façade without any setbacks, so we're trying to represent it as not a added onto addition and you can see from the rendering, this is the side here that is in question where that small little corner here, 3% of the addition falls in the 10 foot required side yard setback. Its not visible from the street, it's actually a corner lot, it's not visible from any street, and there's an adjacent, there's a neighbor to the north and there's screening and I believe there's an existing fence there. I did list out the five items, it's self-created in the fact that its desired by the current owner but the hardship is that unfortunately the property line is not parallel to the house, I don't feel it's significant at all, whether you look at it as the 14 inches out of 10 feet or the 3% out of the total addition. Environmentally we will be capturing the additional stormwater runoff into an underground cultec recharger in the rear yard, so we've addressed that additional water runoff. It's one story in height, it's not blocking any sun, any shade, any views. So we feel that it's pretty reasonable a request in nature. If you have any questions...

Mr. Weise stated can I ask, how far away is the neighboring house from the property line?

Mr. Schlomann stated the adjacent house? It's not on here, I don't know, John, are you on?

Mr. Pappas stated yeah, I'm on. Hi, I wouldn't be able to tell you an exact measurement, I can tell you it's a larger of a difference than what's between mine and his side.

Mr. Weise stated but you would say its more than 10 feet would be your guess.

Mr. Pappas stated yeah.

Mr. Weise stated an additional one foot out of 20 feet between the two houses.

Mr. Pappas stated I'm sorry?

Mr. Weise stated well if you're going to add 14 inches, so it will be about 1 foot out of the 20 foot difference between where the two houses are...

Mr. Schlomann stated approximately, yeah.

Mr. Weise stated okay.

Mr. Pappas stated and I have talked about it with my neighbor who's closest and he's okay with it and he's in favor of it. He has expressed that anything that we do increases the value of our collective neighborhood here.

Mr. Weise stated okay, great, thank you.

Mr. Hoyt stated I think the renovation looks terrific and I think this is very di minimus. I see the issue clearly and to me, I'd be in favor of it.

Mr. Weise stated I agree. That was the one thing that I would have been concerned about is how close is the other house, if it was right, it was very close to the property line that would be an issue but this is not, it doesn't seem like it's that material.

Chairman Boxer stated plus there is a line of hedges between the properties.

Mr. Weise stated okay, that makes it even easier.

Mr. Alfano stated it looks like the house next door beyond the property line is about 15 feet, based on Google Earth.

Mr. Weise stated thank you.

Chairman Boxer stated anybody else? Whitney, have you drafted a resolution on this?

Whitney Singleton stated yup.

Chairman Boxer stated okay and the five factors are met, other than the self-created.

Whitney Singleton stated yeah, I mean what we have here is, it's really, it's really, let me just see. I'm looking at the wrong one though. I recited the fact that there's a hedge, you know I have so many things up on my screen at the moment. I think the big one here is that 14 inches is very di minimus.

Chairman Boxer stated okay.

Whitney Singleton stated and you know that in and of itself and the fact that there's support from the neighbors, I, there's not undesirable change to the character of the neighborhood as the design is consistent with the neighbors. The proposed addition will align the house, will align with the existing house for a more aesthetically pleasing design. No neighbors have objected. That the benefit sought cannot be achieved without a variance or the reduction of the size of the addition. And the proposed method provides for easier construction, pleasing aesthetics and more palatable arrangement. And that the 14 inches is not substantial, neither is it a gross or irrelevant number and that there will not be any adverse impact on the neighborhood with reference to the hedges. No adverse site conditions present themselves and while the alleged difficulty was self-created, it's not fatal to the application. Those are the ones I have listed for you.

Chairman Boxer stated okay.

Whitney Singleton stated and then the conditions of approval would be that the variances is solely for the plans presented, reviewed and considered by your Board and it shall not be, not constitute authorization for any further encroachments.

Chairman Boxer stated can you just reference, I'm sure you will be reference the actually name and date of the plan they submitted.

Whitney Singleton stated sure, okay. The plans for Pappas residence, prepared by SI Design, 8 pages, dated 4/20/20, is that correct?

Mr. Scholmann stated yes.

Chairman Boxer stated then do I have a motion to close the public hearing?

Mr. Miley stated Chairman, you want me to read my number? There's not comments on Facebook, other than one thumbs up emoji believe it or not.

*Laughter*

Chairman Boxer stated where did that come from?

Mr. Miley stated I have no idea. But just to remind folks the number to call in, if you have a comment [phone number redacted for privacy].

Chairman Boxer stated alright, I'll get my wife to call right now. Okay, then do we have a motion to close the public hearing?

**Mr. Hoyt introduced a motion to close the public hearing. Seconded by Mr. Weise.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 4 to 0.**

Chairman Boxer stated any body opposed? Then the variance is granted.

Mr. Schlomann stated thank you.

Chairman Boxer stated okay.

Mr. Miley stated Chairman, that was the public hearing.

Whitney Singleton stated that was just the public hearing, yeah, I was going to say.

Chairman Boxer stated yeah, I do that a lot. Can I have a motion to approve the plans as submitted.

**Mr. Weise introduced a motion to approve the plans. Seconded by Mr. Hoyt.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 4 to 0.**

Chairman Boxer stated anybody opposed? Okay, now it's official.

Mr. Schlomann stated okay, thank you.

Mr. Pappas stated thanks everyone.

Mr. Weise stated have a good night.

Chairman Boxer stated I think we have some minutes that Michelle would like us to approve.

Mr. Miley stated that's correct Chairman.

Chairman Boxer stated we have February, September and May. Let's start with the February first, anybody have any changes they want to make? Okay. Can I have a motion to approve the minutes of February 18<sup>th</sup>?

Mr. Weise introduced a motion to approve the minutes. Seconded by Mr. Alfano.

Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Boxer stated the next one is October 15 of last year, why don't we do September first, September of last year. Any changes?

Mr. Miley stated Chairman, you have three sets left, May 21<sup>st</sup>, September 17<sup>th</sup> and October 15<sup>th</sup>.

Chairman Boxer stated so we approve this one, big fat one. I think, we approved the February 18<sup>th</sup> of this, 2020.

Mr. Miley stated correct.

Chairman Boxer stated now we have May 21 of 2019. Any comments? Motion to approve?

**Mr. Hoyt introduced a motion to approve. Seconded by Mr. Weise.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated now we have September 17<sup>th</sup> of 2019.

Mr. Miley stated correct.

Chairman Boxer stated any comments?

Mr. Weise stated there's only one member present and that was you Harold.

Chairman Boxer stated I have no comments.

Mr. Weise stated don't you need more than one member?

Whitney Singleton stated no.

Chairman Boxer stated because we're not going to get Nancy anyway. So motion to approve September 17<sup>th</sup>?

**Mr. Weise introduced a motion to approve the minutes of September 17<sup>th</sup>. Seconded by Mr. Hoyt.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated anyone opposed? We'll accept those. There's two more left?

Mr. Miley stated October 15, 2019.

Chairman Boxer stated everyone was there. Any changes anyone wants to make? Motion to approve?

**Mr. Hoyt introduced a motion to approve. Mr. Weise second the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated any one opposed? Okay, I assume that Michelle has nothing else for us to do and we'll meet again probably by Zoom. Thank you.

The meeting adjourned at 8:39 pm.